

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARKUS BROWN,

No. C 05-0883 JL

Plaintiff,

CASE MANAGEMENT AND  
PRETRIAL ORDER

v.

CITY OF OAKLAND, ET AL.,

Defendants.

Pursuant to Fed. R. Civ. P. 16 and Civ. L.R. 16-10(b), the following case  
management and pretrial order is entered:

1. TRIAL DATE

a. Jury trial will begin on February 5, 2007 at 9:30 a.m. in Courtroom F,  
15th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102.

b. The length of the trial will be not more than 5 days.

2. DISCOVERY

a. Experts shall be disclosed by 12/15/06.

b. All discovery from experts shall be completed by 1/15/07.

c. All non-expert discovery shall be completed by 12/15/06.

d. In the event of a discovery dispute the parties shall use the following  
procedure:

Parties shall meet and confer in person, or, if counsel are located outside the Bay Area, by telephone, to attempt to resolve their dispute informally. A mere exchange of letters, telephone calls, or facsimile transmissions does not satisfy the requirement to meet and confer.

If, after a good faith effort, the parties have not resolved their dispute, they shall prepare a concise joint statement, of less than three pages, without affidavits or exhibits, stating the nature and status of their dispute. If a joint statement is not possible, each side may submit a one page individual statement. The Court will advise the parties regarding the need, if any, for formal briefing or a hearing.

### 3. MOTIONS

All dispositive motions shall be served and filed not less than **thirty-five (35)** days prior to the scheduled hearing date. Any opposition shall be served and filed no later than **twenty-one (21)** days prior to the hearing date. Any reply to the opposition shall be served and filed no later than **fourteen (14)** days prior to the hearing. Prior to a dispositive motion, the parties shall meet and confer and, at the time the motion is filed, submit a joint statement of undisputed facts.

### 4. PRETRIAL CONFERENCE

a. A final pretrial conference shall be held on January 24, 2007 at 11:00 a.m., in Courtroom F, 15th Floor. Each party shall attend personally or by counsel who will try the case.

b. **Not less than thirty (30) days** prior to the date of the pretrial conference, all counsel or parties shall meet and fulfill the requirements of Civil Local Rule 16-10(b).

c. **Not less than twenty (20) days** prior to the pretrial conference, counsel or parties shall

- (l) serve and file a joint pretrial statement pursuant to Local Rule 16-10
- (b);

1 The pretrial statement shall include the disclosures required by Fed. R. Civ. P.  
2 26(a)(3) as well as the following:

3 THE ACTION

4 Substance of the Action

5 Relief Prayed

6 FACTUAL BASIS FOR THE ACTION

7 Undisputed Facts

8 Disputed Factual Issues

9 Agreed Statement

10 Stipulations

11 DISPUTED LEGAL ISSUES

12 (List)

13 TRIAL PREPARATION

14 Witnesses to be Called

15 Exhibits, Schedules and Summaries;

16 Trial

17 Estimate of Trial Time

18 Use of Discovery Responses at Trial

19 Further Discovery or Motions

20 TRIAL ALTERNATIVES AND OPTIONS

21 Settlement Discussions

22 Amendments - Dismissals

23 Bifurcation, Separate Trial of Issues

24 MISCELLANEOUS

25 Any other concerns of the parties

26 d. At the same time that the parties file their joint pretrial statement they  
27 shall also:  
28

- 1 (ii) Serve and file trial briefs, which shall specify each cause of  
2 action and defense remaining to be tried along with a statement of the  
3 applicable legal standard (no opposition shall be filed);
- 4 (iii) Serve and file motions *in limine*, which shall be contained in  
5 one document. Motions in limine will be decided at the Pretrial  
6 Conference.
- 7 e. Serve and file a list of excerpts from discovery that will be offered at  
8 trial, specifying the witness, page and line references and whether the excerpt is to be  
9 offered in lieu of testimony or as impeachment;
- 10 f. Serve and file a list of witnesses likely to be called at trial, in person or  
11 by deposition, other than solely for impeachment or rebuttal, with a brief statement  
12 describing the substance of the testimony to be given;
- 13 g. Serve and file a numerical list of exhibits (including demonstrative  
14 exhibits that may be admitted into evidence but not those that are purely illustrative), with a  
15 brief statement describing the substance and purpose of each exhibit and the name of the  
16 sponsoring witness;
- 17 h. Exchange exhibits which shall be premarked, tabbed and in binders  
18 (plaintiff shall use numbers and defendant shall use letters); and deliver the original and  
19 **two** duplicate sets of all premarked exhibits to chambers (exhibits are not to be filed) at  
20 least one week before trial.

21 (See Label)

22

23 UNITED STATES DISTRICT COURT  
24 NORTHERN DISTRICT OF CALIFORNIA

25  
26 Case No. \_\_\_\_\_

27  
28 Exhibit No. \_\_\_\_\_

Date entered: \_\_\_\_\_

RICHARD W. WIEKING, Clerk

By: \_\_\_\_\_

Deputy Clerk

j. Serve and file proposed joint voir dire questions and joint jury instructions for cases to be tried by jury (further instructions regarding jury instructions below);

k. Serve and file proposed findings of fact and conclusions of law for cases to be tried by the Court.

l. Serve and file a proposed verdict form which contains no reference to submitting party.

m. **Two courtesy copies** of trial briefs and motions in limine shall be provided.

n. No party shall be permitted to call any witness or offer any exhibit in its case in chief that is not disclosed in these pretrial filings without leave of court and for good cause.

5. **Not less than nine calendar days** prior to the pretrial conference, counsel or parties shall serve and file any opposition or objection to those items required by section 3 (e), (f), (i),(j), (k) and (l) of this order. Additionally, counsel or parties shall file any objections to the qualifications of expert witnesses contained in the opposing party's witness list. Objections not filed as required will be deemed waived. No replies shall be filed. All motions and objections shall be heard at the pretrial conference unless otherwise ordered.

6. JURY TRIAL

a. Counsel shall submit an **agreed upon set** of additional voir dire questions to be posed by the Court. Any voir dire questions on which counsel cannot agree may be submitted separately. Counsel will be allowed brief follow-up voir dire after

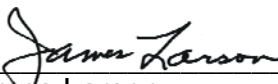
1 the Court's questioning.

2           b. The following jury instructions from the Manual of Model Civil Jury  
3 Instructions for the Ninth Circuit (2002 Edition as modified 2003) will be given absent  
4 objection: 1.1 - 1.12, 2.1 - 2.6, 3.1 - 3.3, 3.5 - 3.8, 4.1 - 4.6. The Ninth Circuit Manual of  
5 Model Civil Jury Instructions is available on the web site for the U.S. District Court for the  
6 Northern District of California at [www.cand.uscourts.gov](http://www.cand.uscourts.gov). Click on the 9<sup>th</sup> Circuit home  
7 page button at the lower left of the first screen and then choose the Manual of Model Civil  
8 Jury Instructions from the list on the right hand side of the next screen. Counsel shall also  
9 submit an agreed upon set of case specific instructions, using the Ninth Circuit Manual of  
10 Model Civil Jury Instructions where appropriate. Do not submit duplicates of those listed  
11 above. Any instructions to which counsel cannot agree may be submitted separately.  
12 Each requested instruction shall be typed in full on a separate page with citations to the  
13 authority upon which it is based and a reference to the party submitting it. A **second blind**  
14 **copy** of each instruction and verdict form shall also be submitted omitting the citation to  
15 authority and the reference to the submitting party.

16           7. All documents filed with the Clerk of the Court shall list the civil case number  
17 followed by the initials "JL." One copy shall be clearly marked as a **chambers** copy.

18 IT IS SO ORDERED.

19  
20 DATED: April 19, 2006

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23 \_\_\_\_\_  
24 James Larson  
25 Chief Magistrate Judge  
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